THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

W.P. No.6339 OF 2005

DATE: 23-08-2005

Between:

M/s. Kedia Overseas Limited,
Rep. by its Managing Director
Mr. Mahesh Kumar Kedia S/o. Gujarilal Kedia
aged 48 years,
a Public Limited Company having its
registered office at Plot No.48,
Sri Krupa Market, Mehboob Mansion,
Malakpet, Hyderabad – 36.

.. Petitioner

AND

The Commercial Tax Officer
Special Commodities Circle,
Saroornagar Division, Hyderabad.

.. Respondent

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

W.P. No.6339 OF 2005

ORDER: (Per Hon'ble Mr. Justice B. Sudershan Reddy)

The petitioner invokes the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the very provisional assessment order, dated
05-03-2005 as well as the revised order, dated 09-03-2005, on the ground that the same have been passed without providing the opportunity of being heard to the petitioner.
The sum and substance of the submission of the petitioner is that the impugned orders suffer from incurable infirmities being in violation of principles of natural justice.

Admittedly, the show cause notice, dated 15-02-2005, issued by the respondent – assessment officer, was served on the petitioner on 19-02-2005. There is no dispute whatsoever that the petitioner submitted its reply purporting it to be interim reply on 26-02-2005 requesting the assessing authority to grant some further time in order to enable it to file necessary documents and further details in support of its claim. On 03-03-2005, the petitioner submitted another representation/reply along with F – Forms requesting the authorities to grant further time to file remaining F – Forms. The impugned order has been passed on 05-03-2005.

In the impugned order, there is no reference to the reply, dated 03-03-2005, submitted by the petitioner along with F – Forms. Obviously, the same has not been taken into consideration by the assessing authority.

Having regard to the facts and circumstances of the case, we consider it appropriate to direct the respondent herein to treat both the provisional assessment order, dated 05-03-2005 and the revised order, dated 09-03-2005, as show cause notice issued to the petitioner requiring to submit its explanation. The petitioner shall submit its explanation to the show cause notice within a period of three weeks from today and the same shall be received and considered by the respondent, in accordance with law. The petitioner shall make available all the documents upon which it intends to rely along with the explanation to be submitted by it within the aforementioned three weeks time.

It is needless to direct the respondent to duly consider the objections/representations and the documents to be filed by the petitioner and pass appropriate orders, in accordance with law.

The Writ Petition is accordingly disposed of without any order as to costs.

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B. SUDERSHAN REDDY, J

Date:23-08-2005.

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RAMESH RANGANATHAN, J

NOTE:

Furnish C.C. of the order by 24-08-2005.

(B/O)

PV